

EXHIBIT A

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Attorneys for Defendant IMPOSSIBLE LLC

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IMPOSSIBLE FOODS INC.,)	Case No. 5:21-cv-02419-BLF
)	(SVK)
Plaintiff,)	
)	Judge: Hon. Beth Labson Freeman
v.)	
)	
IMPOSSIBLE LLC,)	
)	
Defendant.)	
)	
)	
)	

**DEFENDANT IMPOSSIBLE LLC’S FIRST SET OF REQUESTS FOR DOCUMENTS
AND THINGS TO PLAINTIFF IMPOSSIBLE FOODS INC.**

Pursuant to Fed. R. Civ. P. Rules 26 and 34, Defendant Impossible LLC (“Defendant”) hereby requests that Plaintiff Impossible Foods Inc. (“Plaintiff”) produce the requested documents and things called for by these Requests electronically to counsel of record, or if impracticable to produce electronically, at the offices of Wiley Rein LLP, 2050 M St., N.W., Washington, D.C. 20036, within the time as prescribed by the Federal Rules of Civil Procedure. These Requests are

1 to be continuing in nature, and any additional responsive documents or things that may be
2 discovered subsequent to the initial responsive production should be produced within a reasonable
3 time following such discovery pursuant to Fed. R. Civ. P. 26.

4 **DEFINITIONS AND INSTRUCTIONS**

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6 A. The definitions and instructions contained in Defendant's First Set of
7 Interrogatories (the "Interrogatories") are incorporated herein by reference.

8 B. With respect to any document requested for which a claim of privilege, work
9 product, or confidentiality is made, specify (in log form) the nature of the privilege, the nature of
10 the document, identify by name, address, title, and business affiliation, the writer, the addressee,
11 and all recipients thereof, and set forth the general subject matter to which the document relates,
12 and applicable date.

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14 C. Plaintiff shall separately identify the Request by number pursuant to which each
15 document or tangible thing is produced.

16 D. A written response to this Request is required pursuant to Fed. R. Civ. P. 34.

17 **REQUESTS**

18 **REQUEST NO. 1:** Produce all documents and things referenced in Plaintiff's responses
19 to Defendant's First Set of Interrogatories.

20 **REQUEST NO. 2:** Produce all documents and things that Plaintiff relied upon to
21 respond to Defendant's First Set of Interrogatories.

22 **REQUEST NO. 3:** Produce all documents and things regarding the creation, selection,
23 and adoption of Plaintiff's Marks by or on behalf of Plaintiff, including the decision to transition
24 away from Plaintiff's original trade name "Maraxi," how IMPOSSIBLE was came to be
25 considered by Plaintiff and the reasons for its selection, and marks other than IMPOSSIBLE that
26 were considered.
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1 **REQUEST NO. 4:** Produce all documents and things regarding any stylization, logo,
2 design, or additional mark used or intended to be used in commerce by Plaintiff in connection with
3 Plaintiff's Marks.

4 **REQUEST NO. 5:** Produce all documents and things regarding any changes,
5 contemplated or made, in any stylization, logo, design, or additional mark used in commerce or
6 intended to be used in commerce in connection with Plaintiff's Marks.

7 **REQUEST NO. 6:** Produce all documents and things regarding any investigation (such
8 as a trademark, service mark, trade name, Internet name, or corporate name search), concerning
9 Plaintiff's selection, adoption, first use, or decision to apply for federal registration of Plaintiff's
10 Marks.

11 **REQUEST NO. 7:** Produce all documents and things regarding the first use(s)
12 anywhere, and the first use(s) in U.S. commerce, of Plaintiff's Marks by or on behalf of Plaintiff.
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14 **REQUEST NO. 8:** Produce all documents identifying and supporting Plaintiff's
15 claimed priority date(s) for Plaintiff's Marks.

16 **REQUEST NO. 9:** Produce documents sufficient to identify all goods and services with
17 which Plaintiff has used, is using, or intends to use Plaintiff's Marks.
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19 **REQUEST NO. 10:** Produce documents sufficient to identify the actual and/or projected
20 prices of the goods or services offered in connection with Plaintiff's Marks.
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22 **REQUEST NO. 11:** Produce all documents and things regarding each printed and
23 electronic media publication in which Plaintiff has advertised or promoted, is advertising or
24 promoting, or plans to advertise or promote the goods or services offered in connection with
25 Plaintiff's Marks.
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1 **REQUEST NO. 12:** For each good and service with which Plaintiff has used, is using, or
2 intends to use Plaintiff's Marks, produce documents sufficient to show, by calendar quarter, the
3 dollar amount expended by Plaintiff to advertise Plaintiff's Marks in connection therewith.

4 **REQUEST NO. 13:** Produce documents sufficient to identify all person(s) involved in the
5 creation or distribution of advertisements for Plaintiff's goods or services in connection with
6 Plaintiff's Marks.

7 **REQUEST NO. 14:** Produce documents sufficient to identify Plaintiff's delegates or
8 employees responsible for the sale or intended sale of Plaintiff's goods or services under Plaintiff's
9 Marks in U.S. commerce.

10 **REQUEST NO. 15:** Produce documents sufficient to demonstrate the channels of trade
11 in which Plaintiff's Marks have been or are intended to be used.

12 **REQUEST NO. 16:** Produce documents sufficient to identify the stores (actual and
13 electronic or "virtual"), retail outlets, offices, or other locations at which Plaintiff has marketed,
14 promoted, rendered, or sold the products or services offered in connection with Plaintiff's Marks.

15 **REQUEST NO. 17:** Produce documents sufficient to identify the types of customers with
16 whom Plaintiff does or intends to do business in connection with Plaintiff's Marks.

17 **REQUEST NO. 18:** Produce documents sufficient to identify the ultimate purchasers to
18 whom Plaintiff offers or intends to offer the goods or services offered in connection with Plaintiff's
19 Marks.

20 **REQUEST NO. 19:** Produce documents sufficient to demonstrate the geographical areas
21 in which Plaintiff's Marks has been used.

22 **REQUEST NO. 20:** Produce documents sufficient to identify all third parties involved
23 with the manufacturing, distribution, sales, and marketing of products and services offered under
24 Plaintiff's Marks.

1 **REQUEST NO. 21:** For each good and services with which Plaintiff has used, is using, or
2 intends to use Plaintiff's Marks, produce documents sufficient to identify, by calendar quarter, the
3 approximate revenue received to date from sales of Plaintiff's goods and services under Plaintiff's
4 Marks.

5 **REQUEST NO. 22:** Produce all documents regarding the strength, priority, or
6 registrability of Plaintiff's Marks.
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8 **REQUEST NO. 23:** Produce all documents and things regarding the filing and
9 maintenance of any federal or state applications in the United States for Plaintiff's Marks (such as
10 copies of corporate minutes, internal memoranda, and correspondence concerning discussions and
11 decisions to file such documents).
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13 **REQUEST NO. 24:** Produce all documents and things regarding meetings in which
14 Plaintiff participated, in which Plaintiff's Marks were discussed.

15 **REQUEST NO. 25:** Produce all documents regarding Plaintiff's business plans for use
16 of Plaintiff's Marks.

17 **REQUEST NO. 26:** Produce documents sufficient to demonstrate Plaintiff's control over
18 the nature and quality of the goods and services offered in connection with Plaintiff's Marks.

19 **REQUEST NO. 27:** Produce all documents and things reflecting awards, accolades, and
20 gratuitous publicity for Plaintiff's goods and services offered in connection with Plaintiff's Marks.
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22 **REQUEST NO. 28:** Produce all documents and things reflecting consumer complaints
23 regarding Plaintiff's goods and services offered in connection with Plaintiff's Marks.

24 **REQUEST NO. 29:** Produce documents sufficient to identify the domains, websites, and
25 social media accounts on or in which Plaintiff's Marks has been, is, or is intended to be used.

26 **REQUEST NO. 30:** Produce all documents regarding any surveys, market research tests,
27 demographic or consumer profile studies, and focus group inquiries regarding the ultimate
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1 purchasers or potential ultimate purchasers of Plaintiff's goods and services actually or intended
2 to be sold, offered for sale, advertised, or promoted in connection with Plaintiff's Marks, including
3 the results thereof.

4 **REQUEST NO. 31:** Produce documents regarding any comparison studies, surveys, or
5 market research tests, including the results thereof, concerning the goods or services offered in
6 connection with Plaintiff's Marks.

7 **REQUEST NO. 32:** Produce all documents and things regarding any assignment,
8 consent, authorization, license, or permission between Plaintiff and any individual(s) or entity(ies)
9 regarding Plaintiff's Marks, including memorialization of the agreements and any modifications
10 made thereto.

11 **REQUEST NO. 33:** Produce all non-privileged communications between Plaintiff and
12 any third party concerning the subject litigation or the opposition proceeding.

13 **REQUEST NO. 34:** Produce all non-privileged communications between Plaintiff and
14 third parties concerning use of Plaintiff's Marks or any marks similar to Plaintiff's Marks,
15 including any demand letters sent or received by Plaintiff and any responses thereto.

16 **REQUEST NO. 35:** Produce all deposition transcripts, answers to interrogatories,
17 responses to requests for production of documents, and answers to requests for admissions in all
18 litigations or Trademark Trial and Appeal Board proceedings involving Plaintiff's Marks.

19 **REQUEST NO. 36:** Produce all documents regarding trademark enforcement actions
20 taken by or against Plaintiff regarding any mark that includes the term IMPOSSIBLE, and
21 documents sufficient to identify the party seeking to enforce its mark, the asserted mark(s), the
22 alleged infringing mark(s), and the resolution of the dispute.
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1 **REQUEST NO. 37:** Produce all documents and things regarding Defendant, including
2 documents reflecting the date and circumstances under which Plaintiff became aware of
3 Defendant.

4 **REQUEST NO. 38:** Produce all documents and things regarding Defendant's Marks,
5 including documents reflecting the date and circumstances under which Plaintiff became aware of
6 Defendant's Marks.

7 **REQUEST NO. 39:** Produce all documents and things regarding Defendant's stylization
8 of the IMPOSSIBLE mark (as reflected in, e.g., Reg. No. 4260617), including documents
9 reflecting the date and circumstances under which Plaintiff became aware of Defendant's
10 stylization of the IMPOSSIBLE mark.

11 **REQUEST NO. 40:** Produce all documents and things regarding Defendant's principal
12 Joel Runyon, including documents reflecting the date and circumstances under which Plaintiff
13 became aware of Mr. Runyon.

14 **REQUEST NO. 41:** Produce all documents and things regarding any action taken by
15 Plaintiff in response to Plaintiff's awareness of Defendant's Marks or Defendant.

16 **REQUEST NO. 42:** Produce all documents and things regarding any instance in which a
17 person has been confused, mistaken, or deceived as to the source of Plaintiff's goods or services
18 offered in connection with Plaintiff's Marks on the one hand, and Defendant or Defendant's Marks
19 on the other hand.

20 **REQUEST NO. 43:** Produce all documents regarding Plaintiff's alleged use of Plaintiff's
21 marks "since October of 2015 for . . . restaurant services, recipes, ingredients, and cooking
22 information," as alleged in Plaintiff's Amended Complaint ¶ 16.

1 **REQUEST NO. 44:** Produce all documents regarding Plaintiff’s allegation that
2 “Defendant’s IMPOSSIBLE-formative marks are conceptually and commercially weak,” as
3 alleged in Plaintiff’s Amended Complaint ¶ 27.

4 **REQUEST NO. 45:** Produce documents sufficient to show Plaintiff’s organizational
5 structure, including identification of departments responsible for sales, advertising, and branding,
6 and identification of parent, subsidiary, sister or other affiliated companies.

7 **REQUEST NO. 46:** Produce documents sufficient to show Plaintiff’s official and
8 unofficial trademark policies and practices.

9 **REQUEST NO. 47:** Produce all documents supporting, refuting, or otherwise relating to
10 any claims or defenses asserted by Plaintiff, or that Plaintiff intends to assert, in this litigation.

11 **REQUEST NO. 48:** To the extent not already requested above, produce all documents or
12 things upon which Plaintiff intends to rely or otherwise use in this litigation.
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Respectfully submitted,

Date: March 12, 2024

By: /s/ David E. Weslow

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PROOF OF SERVICE

I certify that the foregoing document was served on today's date by US Mail to Plaintiff's counsel to the following addresses, with courtesy copy by email:

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DATED: March 12, 2024

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